

AGREEMENT
FOR CARRYING OUT THE NATIONAL POLICY RELATIVE
TO ADVERTISING ADJACENT TO THE NATIONAL
SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

In order to promote the safety, convenience and enjoyment of public travel and the free flow of interstate commerce, and to protect the public investment in the National System of Interstate and Defense Highways (hereinafter referred to as the "Interstate System"), the Secretary of Commerce, acting by and through the Federal Highway Administrator, hereinafter referred to as the "Administrator", and the Commissioner of Public Works and Highways of the State of New Hampshire, said commissioner being hereinafter referred to as the "State", do hereby agree as follows:

1. Definitions. (a) The term "Act" means section 131 of title 23, United State Code, as amended by section 106 of the Federal-Aid Highway Act of 1959 (P.L. 86-342, 73 Stat. 612).

(b) The term "national standards" means the National Standards for Regulation by States of Outdoor Advertising Signs, Displays and Devices Adjacent to the National System of Interstate and Defense Highways promulgated by the Secretary of Commerce pursuant to the Act, and in effect on the date of this agreement. Said national standards, as they were published in the Federal Register on November 13, 1958, (23 F.R. 8793) and amendments published in the Federal Register on January 12, 1960 (25 F.R. 218) and March 26, 1960 (25 F.R. 2575) are hereby incorporated herein by reference.

(c) Unless the context requires otherwise, the terms used herein shall have the same meaning as in the Act and the national standards.

2. Scope of Agreement. Except as otherwise expressly set forth herein, this Agreement shall apply to areas adjacent to all portions of Interstate System Highways within the State that are constructed upon any part of a right of way, the entire width of which has been acquired subsequent to July 1, 1956. The said areas

(hereinafter designated "Adjacent Areas") are those within 660 feet of the edge of the right of way of Interstate System highways, determined in accordance with the national standards.

There shall be excluded from application of the said national standards any segments of the Interstate System which traverse commercial or industrial zones within the boundaries of incorporated municipalities, as such boundaries existed on September 21, 1959, wherein the use of real property adjacent to the interstate System is subject to municipal regulation or control, or which traverse other areas where the land use, as of September 21, 1959, was clearly established by State law as industrial or commercial.

3. State's Obligation. The State hereby agrees that, in accordance with the terms of this Agreement, it will control or cause to be controlled the erection and maintenance of outdoor advertising signs, displays and devices in Adjacent Areas within such State consistent with the Act and the national standards.

4. Plan for Controlling Adjacent Areas. The State further agrees that its control of Adjacent Areas shall, as a minimum, be in conformity with the Act, and the national standards, and shall be carried out pursuant to the Plan.

5. Exceeding of Standards. Nothing contained herein shall prohibit the State from exercising control of outdoor advertising signs to a greater degree than that required or contemplated by the national standards and the Act.

6. Plan for Controlling Areas Adjacent to Interstate Highways. State has presented or will present a "Plan for Controlling Areas Adjacent to Interstate Highways". The Plan shall consist of a narrative statement setting forth the methods and procedures the State will follow in controlling outdoor advertising, and shall include a set of maps color coded to show the segments of the Interstate System considered eligible for payment of an increased Federal share of the cost of construction, and the segments which are not considered eligible. The State shall promptly submit to the Administrator additions to or amendments of the Plan when the selection, designation, or modification of Interstate high-

way routes or other reasons make such action necessary or desirable. The State may from time to time submit to the Administrator any proposals for amendment of the Plan. If approved by the Administrator, such additions or amendments shall become a part of the Plan.

7. Increase of Share. The Federal share payable on account of any project on the Interstate System provided for by funds authorized under section 108 of the Federal-Aid Highway Act of 1956, as amended, to which the Act, the national policy, and this Agreement apply, shall be increased by one-half of one per centum of the total cost thereof, if and when funds are appropriated and made available for such purposes. However, no additional cost that may be incurred in carrying out this Agreement, no cost incurred in connection with any segment of highway excluded from the application of the national standards, and no cost of any project not payable from funds authorized by section 108 of the Federal-Aid Highway Act of 1956, as amended, shall be included in such total for purposes of determining the amount of such increase.

8. The Obligation of the Federal Government. Notwithstanding any other provision of this Agreement, the United States shall not be required to make any payments hereunder unless and until Federal funds are duly appropriated in amounts sufficient to enable the Administrator to make payments as provided in this Agreement.

9. Payment Upon Evidence of Compliance. Payment of the one-half of one percent increase in the Federal share will be made by the Administrator from funds appropriated and available for such purpose with respect to any project upon the submission by the State to the Administrator of a satisfactory showing that the State has fulfilled its obligations under this Agreement in connection with such project, that such project is completed, and that State is continuing to carry out its obligations hereunder with reference to all other highways on the Interstate System.

Advertising signs, displays or devices shall be removed, or caused to be removed, by State as follows:

(a) No outdoor advertising sign, display or device which is inconsistent with the Act or the national standards shall be allowed to remain after July 1, 1964, in areas adjacent to any segment of the Interstate System which, prior to July 1, 1961, either has been completed to the geometric and design standards adopted for that system, or is under contract for completion to such standards.

(b) No outdoor advertising sign, display or device which is inconsistent with the Act or the national standards shall be allowed to remain in areas adjacent to any segment of the Interstate System after the date upon which the State highway department has accepted, as completed, a contract awarded on or after July 1, 1961, for the completion of such segment to the geometric and design standards approved for the Interstate System.

No part of the increased Federal share payable under the Act shall be paid to a State highway department on account of any project until outdoor advertising in areas adjacent to that project complies completely with the national standards.

10. Failure to Perform Obligations. If, after receiving payment of any portion of the aforementioned increase of one-half of one percent in the Federal share of the cost of any project, the State should fail to perform its obligations or continue the same under this Agreement in connection with any project, the State hereby agrees that, if, without good cause shown to the satisfaction of the Administrator, it fails to perform such obligations within 30 days after the date of mailing by the Administrator of written notice thereof, it will return to the Federal Government all payments heretofore made under this Agreement. In the event the State does not return all of such payments within a reasonable time, State hereby authorizes the Administrator to withhold from the State an amount equal to such payments out of any Federal-aid highway funds then due or that may thereafter become due to the State.

Notwithstanding any other provision in this section, if the State fails to perform any obligation of this Agreement and such failure is caused by a declaration of a court of competent jurisdiction or by a ruling of the Attorney General of said State that said State is without legal authority to perform said obligation under this contract, then the State will not be required to return to the Federal Government payments heretofore made under this Agreement unless and until sixty days have elapsed after the adjournment of the State legislative session next following such declaration or ruling.

11. Repayment Necessitated by Change in Zoning Within Incorporated Municipalities. If, after receiving payment of any portion of the aforementioned increase of one-half of one percent, which payment is due to the control of advertising by State in an area within the limits of an incorporated municipality as those limits existed on September 21, 1959, the status of any portion of said area is changed to a commercial or industrial zone, the national policy on advertising control shall no longer apply to the area or portion of area the status of which is changed, and State hereby agrees that it will repay so much of any bonus payment made on account of the area to which the national policy no longer applies. In lieu of repayment, State hereby authorizes the Administrator to withhold from the State an amount equal to such payments out of any Federal-aid highway funds then due or that may thereafter become due to the State.

12. Effective Date. This Agreement shall become effective when executed by both parties.

In Witness Whereof: the State has caused this Agreement to be duly executed
in its behalf, and the Administrator has likewise caused the same to be duly
executed in his behalf, as of the dates specified below.

Alston C. White

MAY 17, 1963:

ATTEST:

Secretary

(SEAL)

N.H. Department Public Works & Highways

By John O. Morton (SEAL)

Commissioner

N.H. Dept. Public Works & Highways

U.S. DEPARTMENT OF COMMERCE
Bureau of Public Roads

By Henry H. Whittier

Federal Highway Administration

PLAN FOR CONTROLLING OUTDOOR ADVERTISING IN AREAS ADJACENT TO THE NATIONAL
SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS IN THE
STATE OF NEW HAMPSHIRE

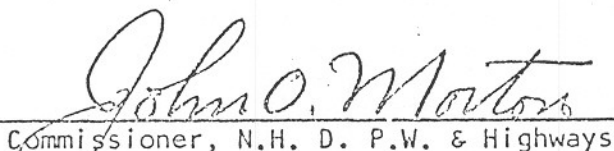
The provisions of Chapter 239:4 RSA of the State of New Hampshire authorize the Commissioner of Public Works and Highways "to act for the state" - - "in conjunction with the representatives of the federal government in all matters relating to the location and construction of highways" --- "and to take such action as may be necessary to secure to the state the aid and benefits of the provisions of said act (Federal-Aid Road Act, 7/11/16) and all amendments thereto, including the Federal-Aid Highway Act of 1944, and of the provisions of the Federal Highway Act of 11/9/21 and all amendments thereto".

In order to comply with the Federal-Aid Highway Act of 1956 as amended, Chapter 249-A RSA was passed by both houses of legislature and signed by the governor on July 6, 1961. The effective date was August 5, 1961. Sections 249-A-3:1 and 249-A-3:2 were amended by the 1963 legislature and the effective date of these amendments was April 16, 1963. Under the provisions of this statute the Commissioner is authorized to enter into agreements with the Secretary of Commerce of the United States as provided by Title 23, U.S.C., Section 131, and to enforce the regulations of this statute governing the controlling of outdoor advertising. A copy of Chapter 249-A R.S.A. is attached and hereby made a part of this Plan.

The approximate location of that portion of the National System of Interstate and Defense Highways within the State of New Hampshire has been indicated on strip maps prepared from the general Highway Map series. Prints of these strip maps, showing these approximate locations of the Interstate Highways have been color coded to indicate those sections of the System that are covered by the terms of the Agreement of which this Plan is a part. This color code also indicates those areas in which the State of New Hampshire is entitled to participate in the Bonus Award for the Control of Outdoor Advertising, that is provided in the Federal-Aid Highway Act as amended. The above described strip maps are attached hereto and made a part of this Plan.

The Plan and the attachments hereto that are a part of the Plan, upon approval by the Administrator, will become a part of the Agreement. It is understood and agreed between the parties hereto that the State may, from time to time, submit additions or amendments to this Plan. If approved by the Administrator, such additions and/or amendments shall be incorporated in and become a part of the Agreement.

The States' Plan for Controlling Outdoor Advertising in Areas Adjacent to the National System of Interstate and Defense Highways, as herein set forth, is signed for purposes of identification by the Commissioner of the New Hampshire Department of Public Works and Highways.


Commissioner, N.H. D. P.W. & Highways

STATE OF NEW HAMPSHIRE
CHAPTER 249-A RSA

OUTDOOR ADVERTISING

249-A:1 Policy. It is hereby declared to be the policy of this state and in the public interest to provide for maximum visibility along the interstate system and connecting roads or highways, to prevent unreasonable distraction of operators of motor vehicles, to prevent confusion with regard to traffic lights, signs or signals or otherwise interfere with the effectiveness of traffic regulations, to promote maximum safety, comfort and well-being of users of the interstate highway system and to preserve and enhance the natural scenic beauty or the aesthetic features of the interstate highway system and adjacent areas.

249-A:2 Definitions.

I. The words "advertising device", as used in this chapter, shall include any billboard, outdoor sign, notice, poster, display figure, painting, message, placard or any other device which is designed or intended to attract or which does attract the attention of operators of motor vehicles on the interstate system and shall include a structure erected or used in connection with the display of any such device and all lighting or other attachments used in conjunction therewith.

II. For the purposes of this chapter the words "interstate system" shall be considered to mean all highways within this state which are a part of the National System of Interstate and Defense Highways described in subsection (d) of section 103 of title 23, United States Code, and constructed upon any part of right-of-way, the entire width of which was acquired subsequent to July 1, 1956.

249-A:3 Restriction of Advertising. No advertising device shall be erected or maintained within six hundred sixty feet of the edge of the right-of-way of the interstate system except the following:

I. Advertising devices in areas adjacent to segments of the interstate system legally zoned on September 21, 1959, as industrial or commercial: provided, however, advertising devices shall not be permitted in such areas within incorporated municipalities possessing zoning

authority upon the rezoning of such areas as nonindustrial and noncommercial subsequent to September 21, 1959, so long as such areas remain zoned nonindustrial and noncommercial.

II. Advertising devices which are to be erected or maintained on the property for the purpose of selling forth:

(1) The name and address of the owner, lessee, or occupant of such property;

(2) Information required by law to be posted or displayed thereon;

(3) The name of the business or profession conducted on such property, or which identify the goods or services produced or sold on such property. Not more than one such sign, visible to traffic proceeding in any one direction on any one interstate highway and advertising activities being conducted upon the real property where the sign is located shall be permitted more than fifty feet from the advertised activity. The name of the activity advertised on signs more than fifty feet from the advertised activity must be displayed as conspicuously as the trade name.

III. Advertising devices indicating the sale or leasing of the real property upon which they are placed. Not more than one such sign advertising the sale or lease of the same property shall be permitted in such a manner as to be visible to traffic proceeding in any one direction on any one interstate highway.

IV. Directional, informational signs in the specific interest of the travelling public, or other official signs and signals erected or maintained by state or other public agencies having jurisdiction, provided the erection of such signs is not inconsistent with the standards promulgated by the United States Secretary of Commerce dated November 10, 1958, as amended on January 12 and March 26, 1960. For the purpose hereof, informational signs are deemed to be in the specific interest of the travelling public only if they contain information about public places operated by federal, state or local governments, natural phenomena, historic sites, areas of natural scenic beauty or naturally suited for outdoor recreation, and places for camping, lodging, eating and vehicle service and repair. The commissioner of public works and highways is vested with authority to determine whether informational signs are in the specific interest of the travelling public.

249-A:4 No sign which is permitted under 249-A:3 II or III may be permitted to be erected or maintained, in any manner inconsistent with the following:

(a) no sign may be permitted which attempts or appears to attempt to direct the movement of traffic or which interferes with, imitates or resembles any official traffic sign, signal or device.

(b) no sign may be permitted which prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic.

(c) no sign may be permitted which contains, includes, or is illuminated by any flashing, intermittent or moving light or lights.

(d) no lighting may be permitted to be used in any way in connection with any sign unless it is so effectively shielded as to prevent beams or rays of light from being directed at any portion of the main travelled way of the interstate system, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of any motor vehicle, or to otherwise interfere with any driver's operation of a motor vehicle.

(e) no sign may be permitted which moves or has any animated or moving parts.

(f) no sign may be permitted to be erected or maintained upon trees or painted or drawn upon rocks or other natural features.

(g) no sign may be permitted which is obsolete, not clean and in good repair, or that is not securely affixed to a substantial structure.

(h) no sign permitted under 249-A:3 II (1) and (3) and 249-A:3 III may exceed twenty feet in length, width or height, or one hundred fifty square feet in area, including border and trim but excluding supports, except signs not more than fifty feet from, and advertising activities being conducted upon, the real property where the sign is located.

249-A:5 Highways in Juxtaposition. Nothing herein shall prevent an owner of land from using, or permitting the use of, his land for outdoor advertising purposes where said owner's land abuts a highway parallel to, or nearly parallel to and less than six hundred sixty feet from, the edge of right-of-way of an interstate highway, provided that the advertising or informative contents of advertising devices erected and maintained on said land shall not be visible from the main-traveled way of the interstate highway and that said devices shall be consistent with the intent of section 2 and section 3.

249-A:6 Public Nuisance. Any advertising device erected or maintained in violation of section 3 and 4 hereof is hereby declared a public nuisance and such device shall be abated and ordered removed by the commissioner of public works and highways within thirty days after notice by the commissioner of public works and highways to the owner of the land on which such device is located. If such advertising device is not removed within thirty days after such notice, the commissioner of public works and highways shall cause to have such advertising device removed at the expense of the owner of land containing such advertising device.

249-A:7 Removal of Non-Conforming Advertising Device. Advertising devices existing on the effective date of this chapter which violate section 3 and 4 hereof are hereby declared to be non-conforming uses. Such non-conforming uses are hereby declared to be public nuisances. The commissioner of public works and highways shall give notice to owners of the lands on which such non-conforming uses are located that the non-conforming uses must be discontinued and removed by the owners of the lands on which are located non-conforming uses within six months from the date of such notice. If such devices are not removed within six months from the date of such notice, the commissioner of public works and highways shall cause to have such non-conforming uses removed at the expense of owner of land containing such non-conforming uses.

249-A:8 Penalty. Whoever erects or maintains an advertising device in violation of the provisions hereof shall be fined not less than one hundred dollars nor more than one thousand dollars.

249-A:9 Acceptance of Federal Funds. The commissioner of public works and highways may accept any allotment of funds by the United States, or any department or agency thereof, for the foregoing purposes.

249-A:10 Agreement with United States Secretary of Commerce Relating to the Erection of Advertising Devices. The commissioner of public works and highways may enter into agreements with the secretary of commerce of the United States as provided by Title 23, U.S.C. Section 131. Any expenditures of money by the commissioner in connection with agreements authorized by the section shall be payable from any funds available to the commissioner.

249-A:11 Informational Sites. Consistent with the provisions of section 3, paragraph IV, the commissioner of public works and highways shall establish informational sites for the erection and maintenance of signs, which (a) advertise places for camping, lodging, eating and vehicle service and repair within twelve air miles of said signs and (b) give other information in the specific interest of the travelling public as set forth in said paragraph. He shall establish also at said sites, when sponsored as hereinafter provided, suitable facilities for distribution of general informational material which may be in the interest of the travelling public. Facilities of this nature shall be established only when sponsored by an appropriate state agency acting either in its own behalf or in behalf of a local or regional organization or organizations. The sponsoring agency shall be responsible for operating and staffing each such facility in accordance with standards set by the commissioner of public works and highways. The commissioner shall prepare and promulgate standards for said sites and all facilities of any kind, located therein and shall make reasonable annual charges for the use of advertising display facilities made available at said sites; provided further that the commissioner shall set standards by which the erection and maintenance of all advertising devices subject to the provisions of this chapter shall be regulated.

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249-A:12 Separability. If any provisions of this chapter or the application of such provisions to any person or circumstances shall be held invalid, the validity of the remainder of this chapter and the applicability of such provision to other persons or circumstances shall not be affected thereby.

269:2 Takes Effect. This act shall take effect thirty days after passage.

Approved July 6, 1961

Effective date August 5, 1961

Amended by 1963, 3:1 and 3:2

Effective date April 16, 1963